

ANR PRODUCTION CO.

IBLA 83-861

Decided August 23, 1984

Remand from decision of the United States District Court for the District of Wyoming ordering reversal of Liberty Petroleum Corp., 73 IBLA 368 (1983).

Liberty Petroleum Corp., 73 IBLA 368 (1983), reversed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases:
Applications: Filing

Failure of a first-drawn simultaneous oil and gas lease application to reveal the relationship between the person signing the application and the corporate applicant, contrary to provision of 43 CFR 3112.2-1(b), does not constitute a substantial defect so as to prevent lease issuance, where a reviewing United States District Court finds that the Bureau of Land Management employees concerned have actual knowledge of the relationship.

APPEARANCES: Steven D. Naumann, Esq., for appellant.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

On June 15, 1983, this Board decided Liberty Petroleum Corp., 73 IBLA 368 (1983), finding that failure by appellant ANR Production Company (ANR) to indicate the relationship between the corporate applicant and the person signing ANR's simultaneous oil and gas lease application for parcel W-623 in the July 1982 filing was fatal to the application. The Board's decision reversed a decision by the Wyoming State Office, Bureau of Land Management (BLM), which rejected a protest by Liberty Petroleum Corporation (Liberty), the second drawn applicant, to issuance of lease W 82322 for parcel WY-623 to ANR. Citing 43 CFR 3112.2-1(b) as the basis for decision, the Board remanded the case file and ordered BLM to sustain Liberty's protest against ANR's first-drawn application and to issue lease W 8322 for parcel WY-623 to Liberty.

ANR appealed the Board's decision to the United States District Court for the District of Wyoming and, at the same time, gave notice of appeal from the July 18, 1983, BLM rejection of ANR's lease application for parcel WY-623, which was done in conformity to this Board's remand order in Liberty Petroleum Corp., *supra* at 371. On November 17, 1983, the Board stayed further proceedings in this appeal pending decision of the matter by the District Court.

On January 11, 1984, in ANR Production Co. v. Watt, Civ. No. 083-375-K (D. Wyo.), the Court entered judgment for ANR, and reversed this Board's decision in Liberty Petroleum Corp., *supra*. Following decision by the District Court the defendants appealed to the Tenth Circuit Court of Appeals; subsequently, however, on July 2 and August 10, 1984, they withdrew their appeals. Alleging the decision by the District Court is final, ANR has applied for an appropriate order from the Board on remand.

The District Court's order, relying upon the decision in Conway v. Watt, 717 F.2d 512 (10th Cir. 1983), finds violation of the provision of 43 CFR 3112.2-1(b) construed by this Board in Liberty Petroleum Corp. not to warrant denial of lease issuance in this case. The Court observes that here, where it appears the failure to show the relationship of the person signing the application did not hinder BLM's handling of the application, strict application of the rule was unnecessary and unreasonable. The Court finds that the BLM employees charged with handling the applications in this case had actual knowledge of the identity of the signer of the ANR application, and knew his relationship to ANR. Under these circumstances, the Court finds that lease issuance to ANR was improperly denied. The Court's order requires that the original BLM decision denying Liberty's protest be reinstated.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision in Liberty Petroleum Corp., *supra*, is reversed; the BLM decision of October 15, 1982, is affirmed; the case file is remanded to BLM for action consistent with the order of the District Court and this decision.

Franklin D. Arness
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Wm. Philip Horton
Chief Administrative Judge.

